

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-v-

AMERINDO INVESTMENT ADVISORS
INC., *et al.*,

Defendants.

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/22/2012
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No. 05 Civ. 5231 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

This case was reassigned to my docket on March 20, 2012. On March 7, 2012, Defendant Alberto William Vilar filed a motion for summary judgment, and on March 9, 2012, Defendant Gary Alan Tanaka filed a motion to dismiss.

Pursuant to Rule 2.A of the Court's Individual Practices, a party seeking to file a motion shall first submit a pre-motion letter setting forth the bases of the contemplated motion. Accordingly, IT IS HEREBY ORDERED THAT Defendants' motions are denied without prejudice. Should Defendants wish to renew their motion, they shall submit pre-motion letters no later than April 6, 2012. The Clerk of the Court is respectfully directed to terminate the motions located at Doc. Nos. 206 and 210.

The Court is also in receipt of a letter from Plaintiff, dated March 14, 2012, stating that it "reserves its right to seek leave to amend the amended complaint in this action." Accordingly, IT IS FURTHER ORDERED THAT, should Plaintiff wish to file any motion at this time, such as a motion to amend or a motion for summary judgment based on collateral estoppel, *see SEC v. Shehyn*, No. 04 Civ. 2003 (LAP), 2010 WL 3290977, at *3 (S.D.N.Y. Aug. 9, 2010) ("It is well-

settled that a criminal conviction, whether by a jury verdict or guilty plea, constitutes estoppel in favor of the United States in a subsequent civil proceeding as to those matters determined by judgment in the criminal case.” (quoting *United States v. Podell*, 572 F.2d 31, 35 (2d Cir. 1978))), it shall also submit a pre-motion letter no later than April 6, 2012. The parties are directed to consult the Court’s Individual Practices at http://www.nysd.uscourts.gov/cases/show.php?db=judge_info&id=551 for further guidance.

IT IS FURTHER ORDERED THAT the conference currently scheduled for March 30, 2012 is adjourned pending further submissions by the parties.

SO ORDERED.

Dated: March 21, 2012
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE